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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/689,639	10/22/2003	Richard Fearn		4051

23616 7590 03/16/2007
LAW OFFICES OF CLEMENT CHENG
17220 NEWHOPE STRBET #127
FOUNTAIN VALLEY, CA 92708

EXAMINER

FIGUEROA, ADRIANA

ART UNIT	PAPER NUMBER
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3637

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	03/16/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Due 6/15/2007

Office Action Summary

Application No.

10/689,639

Applicant(s)

FEARN, RICHARD

Examiner

Adriana Figueroa

Art Unit

3637

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- The MAILING DATE of this communication appears on the cover sheet with the correspondence address -

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 January 2007.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 6-26 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 6-26 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.86(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

U.S. Patent and Trademark Office
PTOL-328 (Rev. 08-06)

Office Action Summary

Part of Paper No./Mail Date 20070312

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DETAILED ACTION

Claim Objections

1. Claim 12 is objected to because of the following informalities: the phrase " comprises of the step of.." is incorrect. Appropriate correction is required.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 6, 7, 9-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pruett (US 4,854,542) in view of Mohss (US 5,593,623) and further in view of Chatelain (US 5,580,480).

Regarding claims 6, 9, 14, 15 Pruett discloses a flexible tube form element (10), said tube form element having a protruding portion (16) extending outwardly therefrom formed as a longitudinal tab; securing the protruding portion of the tube form element to a first vertical support member (14), (Figures 3-6).

Pruett does not disclose the tube form being formed from a joined woven fabric sheet. However, Mohss teaches a tube form (3) being formed from a joined woven fabric sheet, (Figures 1-3), (Column 3, Lines 65-66). Therefore, it would have been obvious to a person having ordinary skill in the arts at the time of the applicant's

invention to modify the tube form of Pruett to be of a joined woven fabric sheet as taught by Mohss in order to provide a very flexible and easy to store and transport tube form.

Mohss also discloses the method steps of selecting and cutting the length of the flexible tube form from a larger length of flexible tube form element , (Figure 1), (Column 3, Lines 5-8); and substantially filling the flexible tube form element with a flowable and settable foundation material, (Figure 2).

Pruett modified by Mohss does not disclose the step of bracing the first vertical support member, thereby supporting the flexible tube form element in an upstanding position. However, Chatelain teaches the step of bracing the first vertical support member (42), (Figure 7), (Column 2, Lines 65-67, Column 3, Lines 1-3). Therefore, it would have been obvious to a person having ordinary skill in the arts at the time of the applicant's invention to modify the tube form of Pruett and Mohss to include the step of bracing the first vertical support element as taught by Chatelain in order to secure the tube form in a vertical position.

Regarding claim 7, Pruett does not disclose the step in which the flexible tube form element is left in place on the concrete surface. However, Mohss teaches the step in which the flexible tube form element (3) is left in place on the concrete surface, (Column 4, Lines 23-25). Therefore, it would have been obvious to a person having ordinary skill in the arts at the time of the applicant's invention to modify the steps of Pruett to include leaving in place the flexible tube form element as taught by Mohss in order to provide additional protection to the outer concrete surface.

Regarding claim 10, Pruett modified by Mohss and Chatelain discloses as discussed above and further discloses the step of securing the protruding portion (16) of the flexible tube form element (10) to a second vertical support member (14), (Figures 3-6).

Regarding claims 11 and 12, Pruett modified by Mohss and Chatelain discloses as discussed in claim 6 but does not disclose the step of bracing the first vertical support member further comprising the step of positioning the first vertical support member and therewith the flexible sheet form element in the upstanding position and the step of bracing the second vertical support member. However, Chatelain discloses the step of bracing the first vertical support member (42) further comprising the step of positioning the first vertical support member and therewith the flexible sheet form element in the upstanding position and the step of bracing the second vertical support member (42), (Figure 7). Therefore, it would have been obvious to a person having ordinary skill in the arts at the time of the applicant's invention to modify the steps of Pruett modified by Mohss to include the positioning of the first vertical support member and bracing the second vertical support member as taught by Chatelain in order to provide a stronger support to the concrete form.

Regarding claim 13, Pruett modified by Mohss and Chatelain discloses the steps of securing the protruding portion (16) of the flexible tube form element (10) to the first and the second vertical support members (14) and further includes the step of sandwiching the protruding portion between the first and second vertical support members, (Figures 3, 4).

Regarding claim 17, Pruett modified by Mohss and Chatelain discloses as discussed in claim 14; Chatelain also teaches the step of driving a stake (39) into the ground, (Figure 7); the modified steps of Pruett, Mohss and Chatelain would have the stake adjacent the protruding portion (16) of the flexible tube form element (10); and the stake would be attach to the protruding portion (16). Therefore, it would have been obvious to a person having ordinary skill in the arts at the time of the applicant's invention to modify the steps of Pruett modified by Mohss to include the step of driving the stake into the ground as taught by Chatelain in order to better secure the flexible tube form in a vertical position.

Regarding claim 18, Pruett modified by Mohss and Chatelain discloses as discussed above and further discloses the step of reinforcing the protruding portion (16) with a second vertical support member (14), (Figures 3-6). Chatelain also discloses the step of the step of bracing the second vertical support member (42), (Figure 7). Therefore, it would have been obvious to a person having ordinary skill in the arts at the time of the applicant's invention to modify the steps of Pruett modified by Mohss to brace the second vertical support member as taught by Chatelain in order to provide a stronger support to the concrete form.

Regarding claim 20, Pruett modified by Mohss and Chatelain discloses the step of reinforcing the protruding portion (16) with the first vertical support member (14) comprises the step of attaching the first vertical support member (14) to the protruding portion (16) of the flexible form element (10), (Figures 3-6).

Regarding claims 21 and 24, Pruett modified by Mohss and Chatelain discloses as discussed in claims 6 and 14; Mohss also teaches the step of unrolling the flexible tube form element (3), (Figure 1).

Regarding claims 23 and 26, Pruett modified by Mohss and Chatelain discloses as discussed in claims 6 and 14; Mohss also teaches the step of substantially filling the flexible tube form element with the flowable and settable foundation material further comprises distending the flexible tube form element with the flowable and settable foundation material, (Figure 2), (Column 3, Lines 40-45).

3. Claims 16 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pruett (US 4,854,542) in view of Mohss (US 5,593,623), Chatelain (US 5,580,480) and further in view of Cardwell (US 4,790,509). Pruett modified by Mohss and Chatelain discloses as discussed in claims 15 and 18, but does not disclose the first and second vertical support members are braced with a strut. However, Cardwell teaches a strut (60), (Figure 1). Therefore, it would have been obvious to a person having ordinary skill in the arts at the time of the applicant's invention to modify the steps of Pruett modified by Mohss and Chatelain to include a struss as taught by Cardwell in order to provide a stronger support structure.

4. Claims 22 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pruett (US 4,854,542) in view of Mohss (US 5,593,623), Chatelain (US 5,580,480) and further in view of O'Flaherty (US 2, 505,426). Pruett modified by Mohss and

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Chatelain discloses as discussed in claims 6 and 14, but does not disclose the step of unfolding a folded length of the flexible tube form element. However, O'Flaherty teaches the step of unfolding a folded length of the flexible tube form element (5), (Figure 3). Therefore, it would have been obvious to a person having ordinary skill in the arts at the time of the applicant's invention to modify the steps of Pruett modified by Mohss and Chatelain to have the the flexible tube form element folded as taught by O'Flaherty in order to make it easy to store and transport.

Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Pratt (US 821,738) teaches a concrete form made of a flexible material, having a longitudinal tab sandwiched between the support elements; Cholley (US 6,341,453) teaches a concrete form made of a flexible material, having a longitudinal tab; Weekers (US 5,328,142) teaches a concret form tube made of a flexible material and that can be cut to the desired length; Boisseau (US 5,368,269) teaches a concrete form being braced by a strut.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Adriana Figueroa whose telephone number is 571-272-8281. The examiner can normally be reached on Monday-Friday 8:30am - 5:00pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on 571-272-6867. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

AF/AF
03/12/2007

LANNA MAI
SUPERVISORY PATENT EXAMINER
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Sheet 1 of 1

Complete & Known

Application Number	10/889,639
Filing Date	10/22/2003
First Named Inventor	FEARN, Richard
Art Unit	3835
Examiner Name	BERGERON, Roland G.
Attorney Docket Number	1821P01US

U. S. PATENT DOCUMENTS

[illegible]

FOREIGN PATENT DOCUMENTS

FOREIGN PATENT DOCUMENTS						
Examiner Initials*	Cite No. [†]	Foreign Patent Document	Publication Date	Name of Patentee or Applicant of Cited Document	Pages, Columns, Lines, Tables, Figures, Paragraphs, Or Relevant Portion Appears	f
		Country Code* Number* Kind Code* Invention	MM-DD-YYYY			
		DE 92 00 498 U	03-28-1992	KB-PRODUKTER		

Examiner Signature	/Adriana Figueroa/	Date Completed	03/12/2007
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*EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 808. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant. *Applicant's unique citation designation number (optional). *See Kinds Codes of USPTO Patent Documents at www.uspto.gov or MPEP 801.04. *Enter Office that issued the document, by the two-letter code (WIPO Standard ST.3). *The Japanese patent documents, the indication of the year of the reign of an Emperor must precede the serial number of the patent document. *Kind of document by the appropriate symbols as indicated on the document under WIPO Standard ST.16 if possible. *Applicant is to place a check mark here if English language Translation is attached.

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Notice of References Cited	Application/Control No. 10/689,639	Applicant(s)/Patent Under Reexamination FEARN, RICHARD	
	Examiner Adriana Figueroa	Art Unit 3637	Page 1 of 1

U.S. PATENT DOCUMENTS

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Name	Classification
*	A	US-4,854,542	08-1989	Pruett, M. Brent	249/48
*	B	US-5,593,623	01-1997	Mohss, Anders	264/32
*	C	US-5,580,480	12-1996	Chatelain, Paul J.	249/51
*	D	US-4,790,509	12-1988	Cardwell et al.	249/93
*	E	US-2,505,426	04-1950	MICHAEL O'FLAHERTY	264/31
*	F	US-821,738	05-1906	Pratt L.A.	249/94
*	G	US-5,328,142	07-1994	Weekers, Emile E. A. J.	249/48
*	H	US-6,341,453	01-2002	Cholley, Andre	52/169.1
*	I	US-5,368,269	11-1994	Boisseau, Leon H.	248/351
	J	US-			
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*A copy of this reference is not being furnished with this Office action. (See MPEP § 707.05(e).)
Dates in MM-YYYY format are publication dates. Classifications may be US or foreign.

U.S. Patent and Trademark Office
PTO-892 (Rev. 01-2001)

Notice of References Cited

Part of Paper No. 20070312

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PTO/SB/97 (04-07)

Approved for use through 09/30/2007. OMB 0651-0031

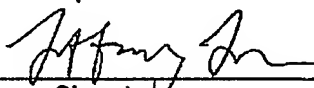
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Reply to Office Action - 5 pgs

PTOL 326 & PTO 892 - 11 pgs

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PTO/SB/21 (04-07)

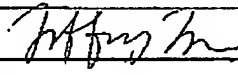
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	Filing Date	10/22/2003	
	First Named Inventor	Fearn, Richard	
	Art Unit	3637	
	Examiner Name	Figueroa, Adriana	
Total Number of Pages in This Submission	18	Attorney Docket Number	

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